

# SENATE BILL No. 488

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5; IC 6-6-4.1; IC 8-23-29-2.

**Synopsis:** Taxation of special fuel. Eliminates the sales tax on the sale of special fuel. Increases the motor carrier fuel surcharge tax on special fuel from \$0.11 to \$0.14 per gallon. Adjusts the allocation of revenue from the surcharge tax so that the new revenue is deposited in the state highway fund and the motor vehicle highway account.

**Effective:** July 1, 2015.

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January 14, 2015, read first time and referred to Committee on Tax & Fiscal Policy.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 488

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-2.5-5-50 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 50. (a) As used in this section, "special fuel" has the**  
4 **meaning set forth in IC 6-6-2.5-22.**

5 **(b) A transaction involving special fuel subject to the motor**  
6 **carrier surcharge tax under IC 6-6-4.1-4.5 is exempt from the state**  
7 **gross retail tax.**

8 SECTION 2. IC 6-2.5-6-7, AS AMENDED BY P.L.146-2008,  
9 SECTION 311, IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2015]: Sec. 7. Except as otherwise provided in  
11 ~~IC 6-2.5-7~~ or in this chapter, a retail merchant shall pay to the  
12 department, for a particular reporting period, an amount equal to the  
13 product of:

14 (1) seven percent (7%); multiplied by  
15 (2) the retail merchant's total gross retail income from taxable  
16 transactions made during the reporting period.



1 The amount determined under this section is the retail merchant's state  
 2 gross retail and use tax liability regardless of the amount of tax the  
 3 retail merchant actually collects.

4 SECTION 3. IC 6-2.5-6-10, AS AMENDED BY P.L.227-2013,  
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2015]: Sec. 10. (a) In order to compensate retail merchants  
 7 and those required to remit gasoline use tax for collecting and timely  
 8 remitting the state gross retail tax, the state use tax, and the gasoline  
 9 use tax, every retail merchant or person required to remit the gasoline  
 10 use tax, except as provided in subsection (c), is entitled to deduct and  
 11 retain from the amount of those taxes otherwise required to be remitted  
 12 under ~~IC 6-2.5-7-5~~, IC 6-2.5-3.5 or under this chapter, if timely  
 13 remitted, a retail merchant's collection allowance.

14 (b) The allowance equals a percentage of the retail merchant's state  
 15 gross retail and use tax or the person's gasoline use tax liability accrued  
 16 during a calendar year, specified as follows:

17 (1) Seventy-three hundredths percent (0.73%), if the retail  
 18 merchant's state gross retail and use tax or gasoline use tax  
 19 liability accrued during the state fiscal year ending on June 30 of  
 20 the immediately preceding calendar year did not exceed sixty  
 21 thousand dollars (\$60,000).

22 (2) Fifty-three hundredths percent (0.53%), if the retail merchant's  
 23 state gross retail and use tax or gasoline use tax liability accrued  
 24 during the state fiscal year ending on June 30 of the immediately  
 25 preceding calendar year:

26 (A) was greater than sixty thousand dollars (\$60,000); and

27 (B) did not exceed six hundred thousand dollars (\$600,000).

28 (3) Twenty-six hundredths percent (0.26%), if the retail  
 29 merchant's state gross retail and use tax liability or the person's  
 30 gasoline use tax accrued during the state fiscal year ending on  
 31 June 30 of the immediately preceding calendar year was greater  
 32 than six hundred thousand dollars (\$600,000).

33 (c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not  
 34 entitled to the allowance provided by this section. A retail merchant is  
 35 not entitled to the allowance provided by this section with respect to  
 36 gasoline use taxes imposed by IC 6-2.5-3.5.

37 SECTION 4. IC 6-2.5-7 IS REPEALED [EFFECTIVE JULY 1,  
 38 2015]. (Collection and Remittance of State Gross Retail Tax on Motor  
 39 Fuel).

40 SECTION 5. IC 6-2.5-9-4 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. ~~(a) Except as~~  
 42 ~~provided in IC 6-2.5-7~~, A person who:



1 (1) displays an advertised price, marked price, or publicly stated  
 2 price that includes the state gross retail or use taxes;  
 3 (2) offers to assume or absorb part of a customer's state gross  
 4 retail or use tax on a sale; or  
 5 (3) offers to refund part of a customer's state gross retail or use tax  
 6 as a part of a sale;  
 7 commits a Class B infraction.

8 ~~(b) A retail merchant who:~~

9 ~~(1) uses a metered pump to dispense gasoline; or special fuel;~~  
 10 ~~(2) is required to display on the pump the total price per unit of~~  
 11 ~~the gasoline or special fuel under IC 6-2.5-7-2; and~~  
 12 ~~(3) advertises the gasoline or special fuel at a price other than that~~  
 13 ~~required by IC 6-2.5-7-2;~~

14 ~~commits a Class B infraction:~~

15 SECTION 6. IC 6-6-4.1-4.5, AS AMENDED BY P.L.277-2013,  
 16 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2015]: Sec. 4.5. (a) A surcharge tax is imposed on the  
 18 consumption of motor fuel by a carrier in its operations on highways in  
 19 Indiana. The rate of this surcharge tax is:

20 (1) eleven cents (\$0.11) per

21 ~~(1) gallon of gasoline; or and~~

22 **(2) fourteen cents (\$0.14) per:**

23 **(A) gallon of** special fuel (other than natural gas or an  
 24 alternative fuel commonly or commercially known or sold as  
 25 butane or propane);

26 ~~(2) (B)~~ diesel gallon equivalent of a special fuel that is liquid  
 27 natural gas; or

28 ~~(3) (C)~~ gasoline gallon equivalent of a special fuel that is  
 29 compressed natural gas or an alternative fuel commonly or  
 30 commercially known or sold as butane or propane.

31 The tax shall be paid quarterly by the carrier to the department on or  
 32 before the last day of the month immediately following the quarter.

33 (b) The amount of motor fuel consumed by a carrier in its operations  
 34 on highways in Indiana is the total amount of motor fuel consumed in  
 35 its entire operations within and without Indiana, multiplied by a  
 36 fraction. The numerator of the fraction is the total number of miles  
 37 traveled on highways in Indiana, and the denominator of the fraction is  
 38 the total number of miles traveled within and without Indiana.

39 (c) The amount of tax that a carrier shall pay for a particular quarter  
 40 under this section equals the product of the tax rate in effect for that  
 41 quarter, multiplied by the amount of motor fuel consumed by the  
 42 carrier in its operation on highways in Indiana.



(d) Subject to section 4.8 of this chapter, a carrier is entitled to a proportional use credit against the tax imposed under this section for that portion of motor fuel used to propel equipment mounted on a motor vehicle having a common reservoir for locomotion on the highway and the operation of this equipment as determined by rule of the commissioner. An application for a proportional use credit under this subsection shall be filed on a quarterly basis on a form prescribed by the department.

SECTION 7. IC 6-6-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) The department shall deposit revenue collected under sections 4 and 12 of this chapter in the state highway fund (IC 8-23-9-54).

(b) The department shall deposit revenue collected under section 4.5 of this chapter as follows:

(1) ~~Forty-five and one-half~~ **Forty-six and twenty-five hundredths** percent (~~45.5%~~) **(46.25%)** in the state highway fund (IC 8-23-9-54).

(2) ~~Forty-five and one-half~~ **Forty-six and twenty-five hundredths** percent (~~45.5%~~) **(46.25%)** in the motor vehicle highway account (IC 8-14-1).

(3) ~~Nine~~ **Seven and five-tenths** percent (~~9%~~) **(7.5%)** in the motor carrier regulation fund administered by the department.

(c) The department shall deposit revenue collected under section 13 of this chapter as follows:

(1) Thirty-five percent (35%) in the motor vehicle highway account (IC 8-14-1).

(2) Sixty-five percent (65%) in the state highway fund (IC 8-23-9-54).

SECTION 8. IC 8-23-29-2, AS ADDED BY P.L.208-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. The department shall contract with a third party to study transportation infrastructure funding mechanisms. The contract must include the following terms:

(1) A description of the funding mechanisms that will be studied.

The funding mechanisms must include the following:

(A) An option that is based on variables, including vehicle gross weight and miles traveled.

(B) An option that accounts for variations in usage and degree of damage caused to transportation infrastructure by vehicles of different sizes and configurations.

(C) A flat per vehicle fee.

(D) Adjustments to one (1) or more of the following:



- 1 (i) The state gross retail tax on motor fuel imposed under  
2 ~~IC 6-2.5-7.~~
- 3 (ii) (i) The gasoline tax imposed under IC 6-6-1.1.
- 4 (iii) (ii) The special fuel tax imposed under IC 6-6-2.5.
- 5 (iv) (iii) The motor carrier fuel tax imposed under  
6 IC 6-6-4.1, including the surcharge tax imposed under  
7 IC 6-6-4.1-4.5.
- 8 (E) Tolls.
- 9 (F) Any other mechanism the department determines is  
10 appropriate.
- 11 (2) The duration of the study, which must be an adequate length  
12 of time to ensure that a quality and comprehensive analysis of all  
13 topics will be thoroughly reviewed, but is not to exceed two (2)  
14 years.
- 15 (3) An inventory of the transportation infrastructure that will be  
16 maintained through revenue generated by the funding  
17 mechanisms included in the study. The inventory must include  
18 state and local highways, roads, and streets.
- 19 (4) The rating system by which the maintenance of the  
20 transportation infrastructure will be evaluated.

